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Robert D. Touslee
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Case Docket No. 6971
Date: September 21, 2005

THE COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Re: Application of: Arterburn
Serial No.: 08/929,836
Filed: September 15, 1997
For: IMPROVED SCREEN FOR FIBERIZING BUSHINGS AND METHOD

Art Unit: 1731
Examiner: HOFFMANN, John

Sir:

Transmitted herewith is/are the following document(s) related to the above-identified application:

- ☐ Notice of Appeal
- ☐ Associate Power of Attorney
- ☒ Reply Brief
- ☐ Request for Oral Hearing

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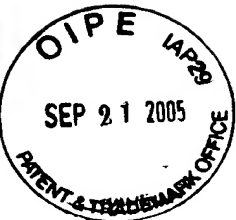
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AF/1731
JGW



In re Application of: Arterburn

Art Unit: 1731

Serial No. 08/929,836

Case Docket No. 6971

Filed: September 15, 1997

Examiner: John Hoffmann

For: **IMPROVED SCREEN FOR FIBERIZING BUSHINGS AND METHOD**

Commissioner of the Patents & Trademarks
Washington, D. C. 20231

Dear Sir:

This Reply Brief is in response to the Examiner's Answer mailed on July 30, 2005.

REPLY BRIEF

Applicant Believes the Examiner's Allegation That The Board of Appeals Decision (2000-0035) Held That Applicant's "End Portion" and "Mid or Central Portion" Must Be Specific Is Erroneous

In the prior Decision 2000-0035, hereinafter referred to as "Board of Appeals Decision", the Board of Appeals Decision did not include the term "arbitrary portions." In this term the word "arbitrary" is an adjective describing "portions". The Board of Appeals Decision did not address the term "portions". Instead, the Board of Appeals Decision dealt with the Examiner's action of "arbitrarily" selecting portions, such as sections D, E, and F in the Fig. 7 exhibit at the back of the Examiner's Answer in the prior appeal, to reject the claims without any further evidence of why it would be obvious to do so. In the term "One can arbitrarily (emphasis mine) designate the various portions [of the screen] so that one of said end portions is smaller in area than the other of said end portions", see page 5 of the Examiner's Answer in the previous appeal. In the term "arbitrarily designate - - - so that one of said end portions is smaller", the word "arbitrarily" is an adverb describing the action of the Examiner. The Board of

Appeals in their Decision said that "it is inappropriate for the Examiner to ""arbitrarily"" define or designate various portions of the prior art apparatus to achieve the claimed invention." The Board of Appeals went on to state that the Examiner failed to identify any teaching in the prior art that supports his conclusion.

Applicant Believes That the Examiner's Conclusion Based On His Use of Fig. 7 of the Kim Patent is in Error

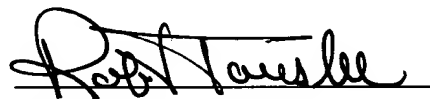
The Examiner now uses Fig. 7 from US Pat. No. 5,935,291 (Kim), originally filed after the filing date of the present application and issued August 10, 1999. Note that this patent is not prior art. The Examiner has "arbitrarily" established regions D, E and F that Kim did not establish and states that he considers these regions to be "end sections", but Kim neither calls them end sections or end regions. Note that Examiner's so-called "end sections" D, E and F do not have a side that borders an end of the screen, only the sides of the screen. What the Examiner has "arbitrarily designated" as section E, Kim says is part of the central region of the screen, see 216 of Fig. 7 and col. 11, line 66. For these reasons, the Examiner's conclusion that a competitor could not determine whether or not his screen infringes applicant's claims is in error because it is based on a hypothetical that is contrary to what Kim teaches, and includes a type of portion that is contrary to what Applicant teaches, an end portion to include sections that are not on one end of a mid or central portion and including a section that is part of a central region, according to Kim. Further, Examiner's section E cannot be an end portion as described by applicant's claims because E does not have a hole area per unit area of screen that is significantly larger than a hole area per unit area of screen of the mid or central portion of the screen.

Applicant's Believes That the Examiner is In Error In The Argument On Page 8 of the Examiner's Answer Regarding What Applicant Said About Stalego.

The Examiner's statement, "It is further argued that Examiner statement regarding the Board decision that ""Stalego does not have end portions"" is erroneous", is misleading and not an accurate of what applicant said on page 11 of the Appeal Brief. What applicant said was, "The Examiner stated on page 5 of the Final Action that "the Board and Applicant have both determined Stalego (a patent used in a prior art rejection that was reversed by the Board in the earlier appeal) does not have "end portions", i. e. it was the Examiner that urged that the Board and applicant said this about Stalego. Applicant then went on to say that nothing in the Stalego patent teaches or suggests the claimed invention structure or the reason for the structure, addressing the problem with channel positions on a leg. What the Board concluded with respect to Stalego was that "a rejection under 35 USC 102 or 103 cannot be based on speculations and assumptions" and that "the Examiner failed to establish a prima facie case of anticipation or obviousness. Applicant agrees that the Board held that the Stalego patent does not teach or suggest the claimed invention.

For the above reasons applicant believes that the claims are in compliance with 35 USC 112, second paragraph, and respectfully requests the Board of Appeals to reverse the Examiner's rejection of the claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert D. Touslee", written over a horizontal line.

Attorney for Applicants

Robert D. Touslee
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